

SUMTER COUNTY ORDINANCE 2009-

AN ORDINANCE OF SUMTER COUNTY, FLORIDA, AMENDING CERTAIN DEFINITIONS AND PROVISIONS OF CHAPTER FOUR OF THE SUMTER COUNTY CODE RELATED TO ANIMAL CONTROL, PROVIDING FOR CODIFICATION, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the provisions of Chapter Four of the Sumter County Code, titled "Animal Control", requires amendment in order to add or clarify various definitions and policies, and;

WHEREAS, the Board of County Commissioners of Sumter County, Florida wishes to empower the appointed Code Enforcement Special Master to hear and adjudicate violations of Chapter 4 of the Sumter County Code.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Sumter County, Florida, that Chapter 4 of the Sumter County Code is hereby amended in part to read as follows:

SECTION 1. Chapter 4, Section 4-2 of the Sumter County Code is hereby amended in the following manner:

Section 4-2 is stricken in its entirety and replaced with the following language:

This chapter shall be applicable within the legal boundaries of the county, including all incorporated and unincorporated areas.

SECTION 2. Chapter 4, Section 4-4 of the Sumter County Code is hereby amended in the following manner:

The following definition of "animal care establishment" is hereby added:

Animal care establishment: Any private facility, whether for profit or non-profit, which boards and/or cares for animals, including but not limited to boarding facilities, kennels, veterinary clinics, animal hospitals, pet stores, or animal rescue organizations.

The definition of Animal Control Manager is hereby stricken in its entirety and is replaced with the following language:

Animal control manager means the manager of Sumter County Animal Control Services who is authorized by the board of County Commissioners to administer the county animal shelter and to administer and enforce the provisions of this chapter. The County Administrator shall designate a county employee as the animal control services manager. Sumter County Animal Control Services is the animal control authority described in the statute.

The definition of Animal Control Officer is hereby stricken in its entirety and replaced with the following language:

Animal control officer means any person Designated by the County Administrator who is authorized to investigate, on public or private property, civil infractions or criminal infractions relating to animal control or cruelty and to issue citations as provided in this chapter. The term includes "animal control officer" as defined in Florida Statutes. An animal control officer is not authorized to bear arms or make arrests.

The definition of Citation is hereby stricken in its entirety and is replaced by the following language:

Citation means a written notice, issued to a person by an animal control officer, that the officer has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the Special Master will hear the charge. The citation shall contain:

- (1) The date and time of issuance;
- (2) The name and address of the person;
- (3) The date and time the civil infraction was committed;
- (4) The facts constituting probable cause;
- (5) The ordinance violated;
- (6) The name and authority of the officer;
- (7) The procedure for the person to follow in order to pay the civil penalty or to contest the citation or to appear before the Special Master;
- (8) The applicable civil penalty if the person elects to contest the citation;
- (9) The applicable civil penalty if the person elects not to contest the citation;
- (10) A conspicuous statement that if the person fails to pay the civil penalty within the time allowed, or fails to appear before the Special Master, he shall be deemed to have waived his right to contest the citation and that, in such case, a ruling may be entered against the person for an amount up to the maximum civil penalty;

(11) A conspicuous statement that if the person is required to appear before the special master mandated by section 4-20 of this chapter, he does not have the option of paying a fine in lieu of appearing at the hearing.

The following definition of "feral animal" is hereby added:

Feral animal means any wild domestic animal, whether it was born in the wild or reverted to a wild state due to abandonment or lack of domestication. Evidence of the feral nature of an animal include but are not limited to a lack of any identifying mark, such as a collar or tag, and the indication of extreme fear, hysteria or aggression consistent with the characteristics of a wild animal in captivity.

The following definition of "hybrid" is hereby added:

Hybrid, for purposes of this chapter, means an offspring of two dogs or cats of different breeds, varieties or genera, where one parent is a domestic breed, variety or genera and the other is non-domestic.

The definition of owner is hereby stricken in its entirety and is replaced with the following language:

Owner shall mean any person who owns, possesses or has custody or control or gives shelter, feeds, confines, boards, keeps houses, or is in charge of, or tends any animal other than livestock, as that term is generally utilized, for a period of five or more days.

The following definition of "Special Master" is hereby added:

Special Master means that person appointed by the Sumter County Administrator as the Sumter County Code Enforcement Special Master under the provisions of Chapter 2, Article V of the Sumter County Code.

SECTION 3. Chapter 4, Section 4-6 of the Sumter County Code is hereby amended in the following manner:

The title of Section 4-6 is replaced in its entirety with the following language:

Section 4-6 Licensure and rabies vaccination of dogs, cats and ferrets.

Section 4-6(a) (2) is deleted in its entirety and replaced with the following language:

(2) Evidence of such vaccinations for a dog, ferret or cat shall consist of a current State of Florida county metal rabies tag, and a certificate of vaccination,

executed in triplicate, issued and signed by the veterinarian administering the vaccine.

Section 4-6(c) is hereby added:

(c) Each dog, cat or ferret in Sumter County shall be licensed by Animal control services. License fees shall be set by resolution of the Board of County Commissioners. Animal control services shall provide a separately metal license tag for the subject animal upon payment of the requisite fee. The metal license tag for a dog, cat or ferret must be displayed on the animal's collar. The license tag will be separate and distinct from the rabies tag required herein. License tags shall be issued annually. Any dog, cat or ferret without a license tag shall be impounded under the procedures outlined by the Sumter County Code, and fines for failure to license an animal as required herein shall be set by resolution of the Board of County Commissioners.

SECTION 4. Chapter 4, Section 4-7 of the Sumter County Code is hereby amended in the following manner:

Sections 4-7 (c) and (d) are hereby added as follows:

(c) Public nuisance animal shall also mean any dog that makes excessive noises that cause unreasonable annoyance, disturbance or discomfort to the neighbors. This includes but is not limited to continued or repeated howling, barking or whining, without provocation, with the exception of dogs housed at animal care establishments. The violation can be witnessed by an officer or documented in at least two affidavits from individuals living or staying in separate residences within 1,000 feet of the dog's location. The affidavits must contain documentation of the times and dates of such nuisances, and must be documented by an animal control officer who will determine if there is probable cause to believe a violation has occurred. A violation may be documented in one notarized affidavit for the purposes of this section if there are no other residences within the dog's location other than the residence of the party filing the affidavit.

(d) This section shall not apply to animals on land zoned for agricultural purposes, to guide dogs for the blind, or to hunting, competition or working dogs while being trained or worked.

SECTION 5. Chapter 4, Section 4-8 of the Sumter County Code is hereby amended in the following manner:

The following language is hereby added to Section 4-8(b):

(5) Any animal classified as "dangerous" under this chapter shall be sterilized. If a Special Master hearing is requested under the provisions of this Chapter concerning whether or not the animal is "dangerous," sterilization shall be delayed until after the finding of the Special Master on that issue.

Sections 4-8(i) and (j) are hereby stricken in their entirety and replaced with the following language.

(i) The owner of a classified dangerous animal who permits, allows or causes such animal to run, stray or be uncontrolled or at large in or upon public or private property, shall be in violation of this chapter if such dangerous animal bites, attacks, or causes injury to any person or domestic animal. Qualifying "attacks" as that term is utilized in this section must consist of an act or acts which would put a reasonable person or owner of a domestic animal in fear of actual physical harm to the targeted person or animal. The Animal Control Services Manager or an Animal control officer shall make a determination as to whether a particular reported incident qualifies as an "attack" based on the standard stated herein. The Animal Control Services Manager's or Officer's determination that an attack occurred may be challenged during a hearing before the Special Master under the provisions of this section.

(j) The following hearing procedures shall be applied in cases involving classified dangerous animals:

(1) A request for a hearing pursuant to F.S. § 767.12 and this chapter to review a determination or action of the animal control manager or animal control officer must be filed, in writing, with the animal control manager or animal control officer within seven (7) calendar days after receipt of written notice of the animal control manager's or animal control officer's determination or action. The written hearing request must be accompanied by a hearing fee consistent with the requirements of state statute, must briefly state the grounds therefore and list the names and addresses of any witnesses the owner intends to call at the hearing. The animal which is the subject of the determination or action must be confined in a secure enclosure pending resolution of the hearing.

(2) Upon receipt of a written hearing request the animal control services manager shall schedule an evidentiary hearing before the Special Master. The hearing shall be held as soon as possible but not more than twenty-one (21) calendar days and no sooner than five (5) calendar days after receipt of the request from the owner. Written notice of the date, time and location of the hearing shall be delivered to the owner no later than five (5) business days prior to the hearing date.

(3) All testimony presented at the hearing shall be under oath and shall be recorded. Formal rules of evidence shall not apply, but fundamental due process shall be observed and shall govern the proceedings. At the hearing, the animal control service manager or his/her designee shall have the burden of proving by a preponderance of the evidence presented, that the determination or action under review was justified and in accordance with the statute. Failure of the owner to appear personally or through legal counsel at the hearing shall result in an order affirming the determination or action and forfeiture of the hearing fee. If the owner prevails, the hearing fee will be returned to the owner.

(4) At the conclusion of the hearing, the Special Master, utilizing his or her sole discretion, shall issue findings of fact, based on evidence of record, and conclusions of law in an order affording the proper relief, said findings and relief being consistent with local and state law. The order shall be filed with the animal control services manager or animal control officer promptly after issuance and shall be deemed entered upon the date of said filing. A copy of the order shall be personally served on the owner or on the owner's legal counsel or mailed by certified mail, return receipt requested, to the owner.

(5) The order of the Special Master shall be final, subject, however, to review in the county court as provided by statute. Such review by the county court shall be in the nature of an appeal from administrative action and not a hearing de novo.

SECTION 6. Chapter 4, Section 4-9 of the Sumter County Code is hereby amended in the following manner:

The title of Section 4-9 is stricken in its entirety and replaced with the following language:

"Section 4-9 Exotic Animals and Hybrid dogs or cats."

The following subsection (e) is hereby added to Section 4-9:

(e) The possession, sale and/or ownership of any hybrid of the family *canis* or *felis*, including but not limited to wolf/dog hybrids or coyote/ dog hybrids, is hereby prohibited within the legal boundaries of Sumter County, Florida as of January 1, 2010. Possession and/or ownership of a hybrid of the family *canis* or *felis* shall result in a \$1,000.00 fine as well as confiscation and humane destruction of the animal by Sumter County Animal Control Services. The hybrid nature of the animal shall be confirmed by a licensed veterinarian prior to the destruction of the animal and

collection of the fine. The owner of the hybrid animal may request a hearing to contest the animal's hybrid classification, the assessment and amount of the citation before the Special Master. The alleged hybrid animal shall be impounded by Sumter County Animal Control Services until the date of the hearing. A hybrid animal must be photographed prior to destruction.

SECTION 7. Chapter 4, Section 4-11 of the Sumter County Code is hereby amended in the following manner:

The following subsection (k) shall be added to Section 4-11:

(k) Feral animals impounded by animal control services shall be humanely destroyed within twenty four (24) hours of a written determination by the animal control services manager or designee, in his or her sole discretion, that the animal in question is feral. The behavior of the classified feral animal shall be photographed prior to its destruction. A feral animal, once impounded and classified, may not be released to a person under any circumstances.

SECTION 8. Chapter 4, Section 4-13 of the Sumter County Code is hereby amended in the following manner:

The title of Section 4-13 of the Sumter County Code is hereby stricken in its entirety and replaced with the following language:

"Section 4-13. Housing and care of animals by owners or animal care establishments"

Section 4-13(1) is stricken in its entirety and replaced with the following language:

(1) Supply the animal with a sufficient quantity of wholesome food and fresh clean water. Water for domestic pets shall be supplied in a clean bowl that is stable enough as to not tip over. Water for pigs, hogs, cattle, or horses shall be provided in a clean trough or bathtub, which is connected to or immediately adjacent to a ready and immediate supply of fresh water sufficient to maintain animal hydration.

The following sections (5), (6) and (7) are hereby added to Section 4-13:

(5) Animal housing facilities at animal care establishments shall be structurally sound and meet all provisions of the Sumter County Code. Such facilities shall be maintained in good repair, to contain the animals, to protect the animals from injury, and to restrict the entrance of other animals. All animal rooms, cages, kennels, shipping containers and runs shall be of sufficient size to provide adequate and

proper accommodations and protection from the weather for the animals kept within. All bedding shall be clean and dry. All cages shall have floors. All areas of confinement, display, sales, and storage areas shall be maintained in a sanitary condition. These areas shall be cleaned and disinfected regularly as conditions warrant. All areas in which animals are confined shall be connected to an outside ventilation system or some other appropriate means of ventilation, or air filtration shall be provided. The area of confinement shall be illuminated during daylight hours.

(6) Animals at animal care establishments requiring daily food and water shall receive same in their assigned facility using sanitary dispensers appropriate to the species and number of animals. Dogs and cats housed at an animal care facility shall be fed at least once every twenty-four (24) hour period.

(7) No animals carrying any disease, virus or bacteria known to be transferable to humans shall be sold in Sumter County.

SECTION 9. Chapter 4, Section 4-14 of the Sumter County Code is hereby amended in the following manner:

Section 4-14(a) is hereby stricken in its entirety and replaced with the following language:

(a) It is a violation of this chapter for any owner, either willfully or negligently, to deprive any animal of food, water, shelter, or protection, or otherwise ill-use an animal.

Section 4-14(b) (2) is hereby stricken in its entirety and replaced with following language:

(2) To suffer injury, malnutrition or dehydration.

SECTION 10: Chapter 4, Section 4-16 of the Sumter County Code is hereby amended in the following manner:

The following language is hereby added to the conclusion of the current text Section 4-16(a):

In the case of the abandonment of cattle or horses on the property of another, the owner of the land upon which the cattle or horses are improperly located, or, in the case of an agricultural lease, the lessee providing for the stock, shall notify Sumter County Animal Control Services of the abandonment. If the original owner of said stock can be readily ascertained through evidence of a brand, number, tag, broken fence or other reasonable means, the landowner or agricultural lessee providing for the stock shall then send a letter, certified mail, return receipt, to the suspected owner of the stock, demanding that they be

claimed and returned to their proper location. If the proper owner does not reclaim and remove stock within thirty (30) days of the date of the documented receipt of the demand, or if provisions for reclamation are not made by the proper owner at that time, the owner or lessee providing for the stock, shall, if he or she chooses, become the owner of the stock at issue. If the original owner of the stock cannot be determined through any available evidence, the owner of the lands at issue, the lessee of an applicable agricultural lease who is providing for the stock, shall, if he or she chooses, become the owner of the stock after a period of thirty (30) days from the date of the report to animal control services. Should ownership be refused by any party, the provisions for animal seizure included in this Code and Florida Statutes shall be pursued.

SECTION 11. Chapter 4, Section 4-18 of the Sumter County Code is hereby amended in the following manner:

The following language is added to the conclusion of Section 4-18:

Additionally, it shall be a violation of this article for any person who owns, harbors, or keeps any (male or female) unsterilized cat four months of age or older to allow or permit such unsterilized cat to be or remain outdoors.

SECTION 12. Chapter 4, Section 4-19 of the Sumter County Code is hereby amended in the following manner:

The second sentence of Section 4-19 is amended as follows:

Notwithstanding the foregoing, the Board of County Commissioners from time to time may designate specific parks or areas in the county where domesticated pets (non livestock) are allowed. The owner must insure the animal is leashed, under restraint and control at all times, and is properly licensed as required as required by this Chapter. Animal waste must be disposed of by the animal's owner. Failure to comply with this section shall result in a citation by an animal control officer.

SECTION 13. Chapter 4, Section 4-20 of the Sumter County Code is hereby amended in the following manner:

Chapter 4, Section 4-20 is hereby stricken in its entirety and replaced with the following language:

(a) An animal control officer who has probable cause to believe that a person who owns or is responsible for an animal has committed an act in violation of any provision of this chapter may issue a citation to the person.

(b) The recipient of a citation may contest it by requesting a hearing before the Special Master.

(c) If a person elects not to contest the citation, he or she shall pay the applicable citation penalty to the clerk of the county court within ten (10) days after issuance of the citation.

(d) If the person elects to contest the citation, he or she shall request a hearing through Sumter County Animal Control Services within ten (10) days of the issuance of the citation. The County shall provide written notice of the hearing location, date and time to the person and the officer. Hearings shall be conducted in the same manner as Code Enforcement Hearings are conducted pursuant to Chapter 2, Article V of the Sumter County Code to the extent the provisions therein do not conflict with this Chapter.

(e) An animal control officer shall present the findings and recommendations of the Animal Control Services Department at the hearing and shall support same by testimony under direct examination of the Sumter County attorney before the Special Master. The contesting party may present rebuttal evidence. Should the Special Master find in favor of Sumter County, the person petitioning for the hearing shall pay the amount owed pursuant to the citation and reimburse Sumter County for the costs of the hearing and the time spent by the Special Master reviewing and adjudicating the matter at issue. Any appeal of the decision of the Special Master shall be a de novo appeal to the Circuit Court of Sumter County, Florida, to be filed within fifteen (15) days of the written entry of the Special Master's decision.

(f) If the person fails to pay the penalty noted in the citation within thirty (30) days of the issuance of the citation or, as applicable, the Special Master hearing, or fails to appear in before the Special Master to contest the citation at the scheduled hearing, said person shall be deemed to have waived his or her right to contest the citation and in such case, shall be guilty of a misdemeanor.

(g) A person who is issued a citation pursuant to this chapter does not have the option of paying the fine and is required to appear before the Special Master if:

(1) The violation results in the unprovoked biting, attacking, or wounding of an individual or a domestic animal. In addition to or in lieu of the set maximum penalty, a person whose animal has bitten, attacked, or wounded a person or a domestic animal may be found liable for restitution to the victim(s).

(2) The violation results in the destruction or loss of personal property.

(3) The violation is a second or subsequent violation by the person of section 4-14 of this chapter regarding cruelty to animals; or

(4) The violation is a third or subsequent violation by the person of the same portion of this chapter, whether or not it pertains to the same or different animal(s).

The animal control services manager shall maintain records to prove the number of citations issued to a particular person or address.

(h) Any person who willfully refuses to sign and accept a citation issued by an officer shall be immediately be liable for amount stated therein and subject to prosecution for a misdemeanor if not paid in thirty (30) days from the date of the citation.

(i) It is a violation of this Chapter to:

(1) Interfere with, hinder, resist, obstruct, molest or threaten bodily injury to any animal control officer or agent of the County in the legal performance of his or her duties, or take or attempt to take an animal from any animal control officer or agent from any vehicle used by him or her to transport the animal;

(2) Knowingly mislead, give false information, or provide a false report or statement to any animal control officer or agent;

(3) Take or attempt to take any animal from an animal shelter without proper authority; or

(4) Knowingly remove, without authorization, an animal from a trap placed by an animal control officer or agent; or, without authorization, to knowingly tamper with, damage, or relocate a trap placed by an animal control officer or agent.

(j) The procedures outlined in this section shall not be applied in lieu of the dangerous animal hearing procedures outlined in Section 4-8 of this Chapter for animals that have been designated as "dangerous animals" under the provisions of that Section.

SECTION 14. Chapter 4, Section 4-21 of the Sumter County Code is hereby amended as stated herein:

Chapter 4, Section 4-21 (4) is hereby stricken in its entirety and replaced with the following language:

(4) Penalty amounts related to enforcement and adjudication under this section shall be implemented and amended by formal resolution of the Board of County Commissioners.

SECTION 15. Chapter 4, Section 4-22 of the Sumter County Code is hereby amended as stated herein:

Chapter 4, Section 4-22 is hereby stricken in its entirety and replaced with the following language:

Section 4-22 Fees, costs and citation amounts:

Fees, costs and citation amounts related to enforcement and adjudication under this Chapter shall be implemented and amended by formal resolution of the Board of County Commissioners.

SECTION 16. Chapter 4, Section 4-25 is hereby stricken in its entirety.

SECTION 17. *Codification.* It is the intention of the Sumter County Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Sumter County Code and the word "ordinance" may be changed to "section," "article," or other appropriate word or phrase and the sections of this Ordinance may be renumbered or relettered to accomplish such intention.

SECTION 18. *Severability.* If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not effect other provisions or applications of the Ordinance which can be given the effect without the invalid provision or application, and to this end, the provision of this act are declared severable.

SECTION 19. *Effective Date.* This Ordinance shall take effect on _____, 2009.

ATTEST: GLORIA HAYWARD
CLERK OF CIRCUIT COURT

SUMTER COUNTY, FLORIDA

Deputy Clerk

(SEAL)

By: Douglas Gilpin
Chairman